



State-Funded Municipal Construction General Guidelines

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Overview

The SDO oversees two programs aimed at diversifying the businesses who participate in state-funded municipal design and construction projects: The Municipal Construction Affirmative Marketing Program (MCAMP), and the Veterans Business Program.¹ The MCAMP applies to state-assisted vertical construction projects (projects with four walls and a roof, generally speaking), while the Veterans Business Program applies to all design and construction projects.

A list of currently certified MBEs, WBEs and VBEs/SDVOBEs in the design and construction fields can be found by searching the [SDO's certification directory](#).

All questions concerning MCAMP may be directed to SDO.Construction@mass.gov.

Municipal Construction Affirmative Marketing Program Requirements

MCAMP Overview

The Municipal Construction Affirmative Marketing Program (MCAMP) requires Municipalities (hereinafter referred to as Awarding Authorities) to incorporate Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) participation goals into both their design and construction procurements for municipal contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building² by any city or town that includes funding provided in whole or in part by the Commonwealth, such as funding under the Massachusetts School Building Authority (MSBA), funding in any legislative appropriation, grant awards, reimbursements, municipal commitments to use state funds, and the like. To count towards participation, the business must be a Supplier Diversity Office (SDO) certified WBE or MBE at the time of contract execution.³ Certification as a disadvantaged business enterprise (DBE), certification as an MBE/WBE by any agency other than SDO, or submission of an application to SDO for certification as an MBE/WBE shall not confer SDO certification status on a firm for purposes of participation credit.

MCAMP Goal Setting

Each Municipality must enforce the current Affirmative Marketing Goals and methodology developed by the Division of Capital Asset Management and Maintenance (DCAMM) in consultation with the SDO. Pursuant to a disparity study conducted by DCAMM, the MBE and WBE goals are now set on a project-specific basis for all projects valued at \$150,000.00 or more.

To ensure goals are set properly, Awarding Authorities should contact SDO.Construction@mass.gov for assistance from SDO and DCAMM in goal setting MBE and WBE goals. You will be asked to provide detailed

¹ See, [M.G.L. c. 7, Section 61](#). DCAMM administers a similar program, the [Affirmative Marketing Program](#), pursuant to for public building design and construction projects it manages, as well as certain other large state-funded projects, pursuant to [M.G.L. c. 7C, Section 6](#). DCAMM's program is not the subject of these guidelines.

² Awarding authorities should consult with their own counsel regarding whether or not a project is "vertical construction" for purposes of state procurement law.

³ Depending on circumstances, MBE, WBE and/or VBE/SDVOBE firms participating on MCAMP projects must also be certified at the time of commencement of work.

information about the project, found in [Attachment E](#) and on our webpage, Request Goals for a Design or Construction Project.

Veterans Business Program Requirements

The Supplier Diversity Office has set a 3% goal for participation of Veterans Business Enterprises (VBE) or Service-Disabled Veteran Business Enterprises (SDVOBE) in any design or construction project valued at \$150,000 or more. As with the MCAMP program, the business must be VBE or SDVOBE certified by SDO to count towards participation.

Guidelines for MCAMP and Veterans Business Program Compliance

1. Prior to Advertising, Awarding Authorities may submit to the SDO a written request for adjustment(s) of participation goals. [Attachment A](#) (Procedure for Municipalities for Pre-Advertising Adjustment of Participation Goals) explains the process for Awarding Authorities to submit these requests to the SDO.
2. Prior to submission of the Bid, if the Contractor/Designer is unable to meet the MBE, WBE and/or VBE/SDVOBE participation goals due to circumstances beyond its control, the Contractor/Designer should submit to the Awarding Authority a request for a participation goal adjustment. [Attachment B](#) (Procedure for Pre-Bid Adjustment of Participation Goals) explains the general process for Contractors/Designers to request such an adjustment, with detailed instructions found in [Attachment C](#), Model Bidding Instructions. These Bidding Instructions are to be incorporated into Awarding Authority Bidding Documents. **Note that Awarding Authorities must fill in the project-specific goals in their Bidding Documents.**
3. Model Contract Instructions, found in [Attachment D](#), must be incorporated into your final contract documents with the successful bidder. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor. **Note that Awarding Authorities must fill in the project specific goals into the Contract Documents.**
4. Awarding Authorities must report their program compliance annually using the [Supplier Diversity Hub](#).

ATTACHMENT A

PROCEDURE FOR MUNICIPALITIES FOR PRE-ADVERTISING ADJUSTMENT OF MBE, WBE and/or VBE/SDVOBE PARTICIPATION GOALS

A. AFFIRMATIVE MARKETING AND VETERAN PARTICIPATION GOALS

Each Municipality must enforce the current Affirmative Marketing Goals set on a project specific basis.⁴ The veteran participation goal is 3%.

B. CRITERIA FOR ADJUSTMENT OF GOALS

After goals are set, in accordance with M.G.L. c. 7 §61(n), an Awarding Authority may file a written request with the SDO Executive Director for an adjustment of participation goals for an individual state-assisted building project, at any time prior to the advertising of the bid.⁵ Factors that may be considered in granting an adjustment of the project goals for design and/or construction include any or all the following:

- Actual availability of certified MBEs, WBEs and/or VBEs/SDVOBEs.
- The geographic location of the project.
- The scope of work of the project including the opportunities for sub-contracting and subdividing the work; and other relevant factors.

Note that adjustments may only be granted upon the submission of sufficient information proving that good faith efforts were pursued to determine whether a goal is achievable by potential bidders. See below, paragraph D.

C. PROJECT THRESHOLDS

In addition to the above criteria, Participation Goals for an individual State-assisted Building Project can be adjusted by the Awarding Authority without filing a formal request with the SDO under paragraph E below, if the total estimated construction cost of the Project as approved by the Awarding Authority is \$150,000 or less, and for design projects when the estimated fee is \$150,000 or less.

D. DOCUMENTATION THAT WILL BE CONSIDERED IN GRANTING AN ADJUSTMENT WILL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

1. A general description of the project, a copy of the detailed project estimates, and the deadline for placement of project advertisements.
2. The reasons that the Awarding Authority or its representative has determined there are no qualified MBEs, WBEs and/or VBEs/SDVOBEs.
3. Documentation after reviewing the MBE, WBE and VBE/SDVOBE listings in the SDO directory that there may be a lack of eligible MBEs, WBEs and/or VBEs/SDVOBEs to perform the design

⁴ Awarding Authorities should contact the SDO for assistance with goal setting; more information about goal setting is available on SDO's Request Goals for a Design or Construction Project page.

⁵ Pursuant to M.G.L. c. 7 § 61(q), the SDO Executive Director has set these written procedures to facilitate adjustment requests.
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and construction contract work in the general region of the project.

4. Documentation after reviewing the MBE, WBE and VBE/SDVOBE listings in the SDO directory that there are no certified businesses within the scopes of work of the project including the opportunity for subcontracting after identifying all subcontracting opportunities.
5. Other Information - The Awarding Authority may also submit any other information supporting its request for adjustment of the MBE, WBE and/or VBE/SDVOBE participation goals.

E. REQUEST FOR ADJUSTMENT OF DESIGN AND CONSTRUCTION GOALS

1. Requests by an Awarding Authority for adjustment of MBE, WBE and/or VBE/SDVOBE Participation Goals on an individual project must be submitted in writing to SDO.Construction@mass.gov for review by the SDO Executive Director no less than fourteen (14) business days before the deadline for placement of advertisements for the contract. Include all documentation with your request.
2. The goals for Design and the goals for Construction are separate and therefore, requests for adjustments for each must be requested separately. Design participation may not be substituted for Construction participation, nor may Construction participation be substituted for Design participation. On modular projects, the design services provided under the construction contract are construction-related participation.
3. The requested adjustment must include the reasons for the adjustment as well as any supporting documentation as described above.
4. A written response to the request will be provided to the Awarding Authority prior to the advertising deadline.

ATTACHMENT B

GUIDANCE FOR CONTRACTOR/DESIGNER PRE-BID ADJUSTMENT OF MBE, WBE and/or VBE/SDVOBE PARTICIPATION GOALS

A. CRITERIA FOR ADJUSTMENT OF GOALS

Potential Bidders may request an adjustment of goals on a project-by-project basis before bids are submitted.⁶ The Awarding Authority reserves the right to accept and review written requests but does not have the authority to grant such requests made by a General Bidder to adjust the MBE, WBE and/or VBE/SDVOBE design and construction participation goals established for this contract. Consistent with M.G.L. c. 7 §61(q) and (r), such written requests must demonstrate to the satisfaction of the Awarding Authority that there is no feasible way for a non-MBE, non-WBE or non-VBE/SDVOBE General Bidder to meet the goals established for this contract and that a **“Diligent Good Faith Effort”** was made to comply. If this criterion is met, the Awarding Authority must submit the General Bidders request to the SDO. Factors that may be considered in granting an adjustment of the contract goals include the following:

- Actual availability of certified MBEs, WBEs and/or VBEs/SDVOBEs
- The geographic location of the project.
- The scope of work and opportunities for subcontracting the work.
- Other relevant factors including documented inability by the prospective Bidder to obtain commitments from MBE, WBE and/or VBE/SDVOBE subcontractors sufficient to meet the respective goals after having made a diligent, good faith effort to do so.

B. PROCESS FOR REQUESTING ADJUSTMENT OF CONSTRUCTION GOALS

1. Requests from prospective General Bidders to adjust the MBE, WBE and/or VBE/SDVOBE participation goals for the Contract must be received by the Awarding Authority in accordance with the deadlines in Attachment C, the Model Bidding Instructions, and must contain all documentation Bidder relies upon for the request.
2. A list of supporting documentation required from Bidders is found in the Model Bidding Instructions, Attachment C, below.
3. The Awarding Authority shall not consider any request to adjust the MBE, WBE and/or VBE/SDVOBE Participation goals for the Contract that is received after the deadline.
4. Should the Awarding Authority determine that the Request satisfies the criteria as described in Section A, supported by sufficient documentation as described in Section B, the Awarding Authority shall submit the request to SDO.Construction@mass.gov for review by the SDO Executive Director.
5. SDO shall provide a written response to the Request to the Awarding Authority.
6. Any adjustment of the MBE, WBE and/or VBE/SDVOBE participation goals for the Contract approved by the Awarding Authority and the SDO must be made by written addendum mailed, by the Awarding Authority, to all persons who have taken out plans for the project within a reasonable period prior to bid submission.
7. Detailed Procedures and Timelines for the Adjustment of MBE, WBE and/or VBE/SDVOBE Participation Goals can be found in the attached Model Bidding Instructions, Attachment C.

⁶ Pursuant to M.G.L. c. 7 § 61(r) and (q), the SDO Executive Director has set these written procedures to facilitate adjustment requests, respectively.

**MUNICIPAL CONTRACTS STATE-
ASSISTED BUILDING PROJECTS
MODEL BIDDING INSTRUCTIONS**

**TO BE ATTACHED BY AWARDING AUTHORITIES AS AN APPENDIX TO BIDDING
INSTRUCTIONS**

**GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES (MBE), WOMEN BUSINESS
ENTERPRISES (WBE) AND VETERAN BUSINESS ENTERPRISES (VBE)/SERVICE-DISABLED
VETERAN BUSINESS ENTERPRISES (SDVOBE), PURSUANT TO M.G.L. c. 7 § 61(n).**

The MBE, WBE and VBE/SDVOBE participation goals for this contract are set as follows:

Certification Category	Insert MBE and WBE Goals Below
MBE	
WBE	
VBE/SDVOBE	3%

A. MBE, WBE and VBE/SDVOBE PARTICIPATION

The apparent low Bidder's compliance with the requirements of this Section is a pre-requisite for receiving the Award of the Contract.

B. PROCEDURE FOR PRE-BID ADJUSTMENT OF MBE, WBE and/or VBE/SDVOBE PARTICIPATION GOALS

1. Criteria for Adjustment of Goals

Potential Bidders may request an adjustment of the goals listed above before bids are submitted.⁷ The Awarding Authority reserves the right to accept and review written requests but does not have the authority to grant such requests made by a General Bidder to adjust the MBE, WBE and/or VBE/SDVOBE design and construction participation goals established for this contract. In accordance with M.G.L. c. 7 §61(q) and (r), such written requests must demonstrate to the satisfaction of the Awarding Authority that there is no feasible way for a non-MBE, non-WBE or non-VBE/SDVOBE General Bidder to meet the goals established for this contract and that a **“Diligent Good Faith Effort”** was made to comply. If this criterion is met, the Awarding Authority must submit the General Bidders request to the SDO. Factors that may be considered in granting an adjustment of the contract goals include any or all of the following:

- Actual availability of certified MBEs, WBEs and/or VBEs/SDVOBEs.
- The geographic location of the project.
- The scope of work and opportunities for subcontracting the work.
- Other relevant factors including documented inability by the prospective Bidder to obtain commitments from MBE, WBE and/or VBE/SDVOBE subcontractors sufficient to meet the respective goals after having made a diligent, good faith effort to do so.

⁷ Pursuant to M.G.L. c. 7 § 61(n), (q) and (r), the SDO Executive Director has set these written procedures to facilitate adjustment requests.

2. Process for Requesting Adjustment of Construction Goals

Deadlines and Documentation

If **filed Sub-Bids** are solicited for this Contract, requests from prospective General Bidders to adjust the MBE, WBE and/or VBE/SDVOBE participation goals for this Contract must be received by the Awarding Authority no later than five (5) working days after the list of filed sub-Bidders is distributed by the Awarding Authority to persons who have taken out plans for the Contract. **If there are no filed Sub- Bids** solicited for this Contract, requests to adjust the MBE, WBE and/or VBE/SDVOBE participation goals for this Contract must be received by the Awarding Authority no later than ten (10) working days before the date set for the receipt of General Bids.

THE AWARDING AUTHORITY WILL NOT CONSIDER ANY REQUEST TO ADJUST THE MBE, WBE and/or VBE/SDVOBE PARTICIPATION GOALS FOR THIS CONTRACT THAT IS RECEIVED AFTER THE DEADLINES.

Requests from prospective General Bidders to adjust the MBE, WBE and/or VBE/SDVOBE participation goals for this Contract must be received by the Awarding Authority in a timely manner and must contain all documentation the Bidder relies upon for the request. Such documentation shall include, at a minimum, the following:

- A list of all items of work under the Contract that the Bidder made available for subcontracting to MBEs, WBEs and/or VBEs/SDVOBEs. The Bidder shall identify all items of work, other than work to be performed by filed sub-Bidders, that the Bidder did not make available and shall state the reasons for not making such work available for subcontracting, for review by the Awarding Authority and ultimately the SDO. The Bidder shall also demonstrate that, where commercially reasonable, subcontracts were divided into scopes or tasks capable of being performed by MBEs, WBEs and/or VBEs/SDVOBEs.
- Evidence that the Bidder sent written notices soliciting Bids or proposals to perform the items of work made available by the Bidder for subcontracting to all MBEs, WBEs and/or VBEs/SDVOBEs qualified to perform such work. The Bidder shall identify (i) each MBE, WBE and/or VBE/SDVOBE solicited, and (ii) each MBE, WBE and/or VBE/SDVOBE listed in the SDO directory under the applicable trade category that was not solicited and reasons therefore that no qualified MBEs, WBEs and/or VBEs/SDVOBEs are available, qualified MBEs, WBEs and/or VBEs/SDVOBEs did not respond, lack of eligible MBEs, WBEs and/or VBEs/SDVOBEs in the geographical region, or there are no certified MBEs, WBEs and/or VBEs/SDVOBEs certified in the scope of work of the project including the opportunity for subcontracting. The Bidder shall also state the date that notices were mailed and provide a copy of the written notice(s) sent.
- Evidence that the Bidder made reasonable efforts to follow up on the written notices sent to MBEs, WBEs and/or VBEs/SDVOBEs with telephone calls or personal visits in order to determine with certainty whether the MBEs, WBEs and/or VBEs/SDVOBEs were interested in performing the work. Phone logs or other documentation must be submitted.
- A statement of the response received from each MBE, WBE and/or VBE/SDVOBE solicited, including the reason for rejecting any MBE, WBE and/or VBE/SDVOBE who submitted a bid or proposal.
- Evidence of reasonable efforts made, if any, to assist MBEs, WBEs and/or VBEs/SDVOBEs that needed assistance in obtaining bonding or insurance, or lines of credit with suppliers if the inability

of MBEs, WBEs and/or VBEs/SDVOBEs to obtain bonding, insurance, or lines of credit is the reason given for the Bidder's inability to meet the MBE, WBE and/or VBE/SDVOBE goals.

- The Bidder may also submit any other information supporting its request for an adjustment in the MBE, WBE and/or VBE/SDVOBE participation goals, including without limitation evidence that the Bidder placed advertisements in the Supplier Diversity Hub and in appropriate media and trade association publications announcing the Bidder's interest in obtaining bids or proposals from MBEs, WBEs and/or VBEs/SDVOBEs and/or sent written notification to MBE, WBE and/or VBE/SDVOBE economic development assistance agencies, trade groups and other organizations notifying them of the Contract and the work to be subcontracted by the Bidder to MBEs, WBEs and/or VBEs/SDVOBEs. The Bidder shall also submit any other information reasonably requested by the Awarding Authority to show that the Bidder has taken all actions that could reasonably be expected to achieve the MBE, WBE and/or VBE/SDVOBE participation goals.

Only good faith requests for goal adjustments will be granted.

Should the Awarding Authority determine that the Request satisfies the criteria as described above, supported by sufficient documentation, the Awarding Authority shall submit the request to SDO.Construction@mass.gov for review by the SDO Executive Director. **Any adjustment of the MBE, WBE and/or VBE/SDVOBE participation goals approved for this Contract by the Awarding Authority and the SDO will be made by Awarding Authority in a written addendum mailed to all persons who have taken out plans for the project.**

C. REQUIREMENTS FOR APPARENT LOW BIDDER

1. No later than five (5) working days after the opening of General Bids, the apparent low Bidder shall submit the following documents to the Awarding Authority: (i) a completed Schedule for Participation by MBE, WBE and VBE/SDVOBE ("Schedule for Participation") in the form provided by the Awarding Authority (Exhibit A) showing MBE, WBE and VBE/SDVOBE participation in amounts equal to or exceeding the respective participation goals for this Contract, (ii) a completed Letter of Intent in the form provided by the Awarding Authority (Exhibit B) for each MBE, WBE and VBE/SDVOBE listed in the Schedule for Participation, and (iii) an SDO most recent certification letter for each MBE, WBE and VBE/SDVOBE listed in the Schedule of MBE, WBE and VBE/SDVOBE Participation showing that the MBEs, WBEs and VBEs/SDVOBEs are certified in the area of work for which it is listed on the Letter of Intent.
2. Each Letter of Intent shall identify and describe the work to be performed by the named MBE, WBE and/or VBE/SDVOBE (the "MBE/WBE/VBE/SDVOBE Work") with enough specificity to permit the Awarding Authority to identify the items of contract work that the MBE, WBE and/or VBE/SDVOBE will perform for MBE, WBE and/or VBE/SDVOBE participation credit. The Awarding Authority reserves the right to reject any Letter of Intent if the price to be paid for the MBE, WBE and/or VBE/SDVOBE Work does not bear a reasonable relationship to the value of such work under the Contract as determined by the Awarding Authority.
3. Within five (5) working days after receipt of the Schedule for MBE, WBE and VBE/SDVOBE Participation, Letters of Intent, and most recent SDO certification letter or certificate, the Awarding Authority shall review and either approve or disapprove the apparent low Bidder's submissions. If the apparent low Bidder has not submitted an appropriate Schedule for MBE,

WBE and VBE/SDVOBE Participation and appropriate Letters of Intent and most recent SDO certification letter or certificate establishing that the MBE, WBE and/or VBE/SDVOBE participation goal for the project will be met, the apparent low Bidder will be considered ineligible for Award of the Contract and the Awarding Authority will Award the Contract to the second lowest eligible and responsible Bidder, subject to said Bidder's compliance with these conditions. If funds are insufficient to award to the second lowest Bidder, the project may have to be re-bid.

4. The Bidder's attention is called to the General Conditions of the Contract which require the Contractor to submit, within thirty (30) days of the Contract Date, signed subcontracts with all subcontractors or a purchase order or invoice from each material supplier and/or manufacturer listed on the Schedule for MBE, WBE and VBE/SDVOBE Participation.
5. A filed sub-Bidder is not required to submit a Schedule of MBE, WBE and VBE/SDVOBE Participation with its Bid. A filed sub-Bidder may, at its option, submit a Letter of Intent with its Bid if it is an SDO certified MBE, WBE and/or VBE/SDVOBE. If a filed sub-Bidder intends to sub- subcontract work to an SDO certified MBE, WBE and/or VBE/SDVOBE, and the awarding authority permits limited sub-subcontracting for purposes of MBE, WBE and/or VBE/SDVOBE participation, and the filed sub-Bidder wishes that sub-subcontract to be credited toward the participation goals for this Contract, the filed sub-Bidder should submit a Letter of Intent from that MBE, WBE and/or VBE/SDVOBE with its Bid.

EXHIBIT A

**SCHEDULE FOR PARTICIPATION
BY MINORITY, WOMEN AND VETERAN/SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES**

Project Number:	
Project Name:	
Project Location:	

- i. **Filed Sub-bidders, utilizing MBE, WBE and/or VBE/SDVOBE firms, and MBE, WBE and/or VBE/SDVOBE Sub-bidders, must attach this to their Filed Sub-bid.**
- ii. **General Contractor must submit to the Awarding Authority within five (5) working days of the opening of General Bids.**

BIDDER CERTIFICATION:

The Bidder agrees that if awarded the contract it will expend at least the amount of the contract set forth below for MBE, WBE and VBE/SDVOBE participation, consistent with the goals established for this project. For purposes of this commitment, the MBE, WBE and VBE/SDVOBE designation means that a business has been certified by the SDO as a MBE, WBE and/or VBE/SDVOBE. The Bidder must indicate the MBE, WBE and/or VBE/SDVOBE firms it intends to utilize on the project as follows (attach additional sheets if necessary):

Company Name & Address	MBE, WBE and/or VBE/SDVOBE	Describe MBE, WBE and/or VBE/SDVOBE Scopes of Work (clarify "Labor Only", "Material Only" or "Labor and Material")	If Supplier, Indicate Total Value of Supplies (60% of Total Counts toward Participation)	Total Dollar Value of Participation
1.				
2.				
3.				
4.				
5.				

MBE Goal:⁸	\$	Total Dollar Value of MBE Commitment:	\$
WBE Goal:⁹	\$	Total Dollar Value of WBE Commitment:	\$
VBE/SDVOBE Goal:¹⁰	\$	Total Dollar Value of VBE/SDVOBE Commitment:	\$

The undersigned hereby certifies that he/she has read the terms and conditions of the contract with regard to MBE, WBE and VBE/SDVOBE participation and is authorized to bind the Bidder to the commitment set forth above.

Name of Firm	
Business Address	
Authorized Signatory Printed Name	
Authorized Signature	
Title	
Telephone No.	
Fax No.	
Date Signed:	

⁸ Established by the SDO in consultation with DCAMM.

⁹ Established by the SDO in consultation with DCAMM.

¹⁰ VBE/SDVOBE goal is 3%.

EXHIBIT B**LETTER OF INTENT****MINORITY, WOMEN AND VETERAN/SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES PARTICIPATION**

(To be completed by MBE, WBE and/or VBE/SDVOBE and submitted by the General Bidder to the Awarding Authority within five (5) working days of the opening of General Bids or by Filed Sub-bidder with their bid.)

Project Number:	
Project Name:	
Project Location:	
Name of General Bidder/Sub-bidder submitted to:	

Indicate SDO Certification (Check all that apply):	
MBE	<input type="checkbox"/>
WBE	<input type="checkbox"/>
VBE	<input type="checkbox"/>
SDVOBE	<input type="checkbox"/>

1. This firm intends to perform work in connection with the above project.
2. This firm is currently certified by the SDO to perform the work identified below and has not changed its minority, women and/or VBE/SDVOBE ownership, control, or management without notifying the SDO within thirty (30) days of such a change.
3. This firm understands that if the General Bidder/Sub-bidder referenced above is awarded the contract, the Bidder intends to enter into an agreement with this firm to perform the activity described below for the prices indicated. This firm also understands that the above-referenced firm, as General Bidder/Sub-Bidder, will make substitutions only as allowed by the terms of the Contract.
4. This firm understands that under the terms of the contract, only work actually performed by an MBE, WBE and/or VBE/SDVOBE will be credited toward MBE, WBE and/or VBE/SDVOBE participation goals, and this firm cannot assign or subcontract out any of its work without prior written approval of the Awarding Authority, and that any such assignment or subcontracting will not be credited toward MBE, WBE and/or VBE/SDVOBE participation goals.

MBE, WBE and VBE/SDVOBE PARTICIPATION

Section/Item Number (If Applicable)	Describe MBE, WBE and/or VBE/SDVOBE Scopes of Work (Clarify "Labor Only", "Material Only" or "Labor and Material")	If Supplier, Indicate Total Value of Supplies (60% of Total Counts Toward Participation)	Dollar Value of Participation

Total Dollar Value:	\$
Name of MBE/WBE/VBE/SDVOBE Firm	
Business Address	
Print Name	
Authorized Signature	
Title	
Telephone No.	
Fax No.	
Date Signed	

ATTACHMENT D

MUNICIPAL CONTRACTS
STATE ASSISTED BUILDING PROJECTS
MODEL CONTRACT INSTRUCTIONS

TO BE ATTACHED AS AN APPENDIX to General Conditions of the Contract

GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES (MBE), WOMEN BUSINESS ENTERPRISES (WBE) AND VETERAN/SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES (VBE/SDVOBE) PURSUANT TO M.G.L. c. 7 § 61(n).

1. GOALS

The goals for minority business enterprise (MBE), woman business enterprise (WBE) and veteran business enterprise/service-disabled veteran business enterprise (VBE/SDVOBE) participation established for this Contract, in accordance with the Massachusetts Municipal Construction Affirmative Marketing Program, established pursuant to M.G.L. c. 7 § 61 (n) and (p) are as set forth below and in the Owner - Contractor Agreement. To count towards MBE, WBE and/or VBE/SDVOBE participation, the business must be a Supplier Diversity Office (SDO) certified MBE, WBE and/or VBE/SDVOBE at the time of contract execution.

Certification Category	Insert MBE and WBE Goals Below
MBE	
WBE	
VBE/SDVOBE	3%

2. MBE, WBE and VBE/SDVOBE PARTICIPATION CREDIT

- A. If the Contractor is itself a MBE, WBE and/or VBE/SDVOBE, MBE, WBE and/or VBE/SDVOBE participation credit shall be given in an amount equal to the entire Contract Price. If the Contractor is not an MBE, WBE and/or VBE/SDVOBE, then MBE, WBE and/or VBE/SDVOBE participation credit will be given for the value of the Work that is actually performed by each MBE, WBE or VBE/SDVOBE subcontractor or sub-subcontractor.
- B. If the Contractor is a joint venture with one or more MBEs, WBEs and/or VBEs/SDVOBEs participating in the joint venture, MBE, WBE and/or VBE/SDVOBE participation credit shall be given to the joint venture as follows:
- (1) If the joint venture is certified by the Supplier Diversity Office (SDO) as an MBE, WBE and/or VBE/SDVOBE, then MBE, WBE and/or VBE/SDVOBE Participation credit shall be given in an amount equal to the entire Contract Price.
 - (2) If the joint venture is not certified as an MBE, WBE and/or VBE/SDVOBE by SDO, then MBE, WBE and/or VBE/SDVOBE participation credit shall be given to the joint venture for the value of the Work that is performed by the MBE, WBE and/or VBE/SDVOBE joint

venture(s), and for the value of the Work that is actually performed by each MBE, WBE and/or VBE/SDVOBE subcontractor or sub-subcontractor.

- C. If an MBE, WBE and/or VBE/SDVOBE supplies, but does not install equipment or materials, MBE, WBE and/or VBE/SDVOBE participation credit shall be given only if the MBE, WBE and/or VBE/SDVOBE supplier is regularly engaged in sales of equipment or supplies to the construction industry from an established place of business. MBE, WBE and/or VBE/SDVOBE participation credit shall be given the full amount of the purchase order only if the MBE, WBE and/or VBE/SDVOBE supplier manufactures the goods or substantially alters them before resale. Otherwise, a contractor may count toward its MBE, WBE and/or VBE/SDVOBE goal 60 percent of the total bid price for its expenditures of its materials and supplies required under a contract and obtained from a MBE, WBE and/or VBE/SDVOBE regular supplier.
- D. MBE participation credit shall be given for the work performed by MBEs only, WBE participation credit shall be given for the work performed by WBEs only and VBE/SDVOBE participation credit shall be given for the work performed by VBEs/SDVOBEs only. For example, MBE participation may not be substituted for WBE or VBE/SDVOBE participation, nor may WBE or VBE/SDVOBE participation be substituted for MBE participation, etc.

3. ESTABLISHING MBE, WBE and/or VBE/SDVOBE STATUS

- A. A MBE, WBE and/or VBE/SDVOBE shall be considered as an MBE, WBE and/or VBE/SDVOBE respectively only if it has been certified by the SDO in its respective certification category at the time of contract award.¹¹
- B. Certification as a disadvantaged business enterprise (“DBE”), certification as MBE, WBE and/or VBE/SDVOBE by any agency or organization other than the SDO, or submission of an application to SDO for certification as an MBE, WBE and/or VBE/SDVOBE shall not confer MBE, WBE and/or VBE/SDVOBE status on a firm for the purposes of this Contract.

4. SUBCONTRACTS WITH MBES, WBEs and/or VBEs/SDVOBEs

Within thirty (30) days after the award of this Contract, the Contractor shall (i) execute a subcontract with each MBE, WBE and/or VBE/SDVOBE Subcontractor which has executed a Letter of Intent Approved by the Awarding Authority, (ii) cause its Subcontractors to execute a sub-subcontract with each MBE, WBE and/or VBE/SDVOBE sub-subcontractor, and (iii) furnish the Awarding Authority with a signed copy of each such subcontract and sub-subcontract.

5. PERFORMANCE OF CONTRACT WORK BY MBES, WBEs and/or VBEs/SDVOBEs

- A. The Contractor shall not perform with its own organization or subcontract or assign to any other firm work designated to be performed by any MBE, WBE and/or VBE/SDVOBE in the Letters of Intent or Schedule of MBE, WBE and/or VBE/SDVOBE Participation without the

¹¹ Should the Awarding Authority suspect a transfer of ownership to be in bad faith to take advantage of the MCAMP program, it reserves all available legal remedies, including but not limited to, termination of this contract. The Awarding Authority further reserves the right to enforce MCAMP participation goals to the fullest extent of the law, including, but not limited to, coordinating with the Massachusetts Attorney General’s Office.

prior Approval of the Awarding Authority, nor shall any MBE, WBE and/or VBE/SDVOBE assign or subcontract to any other firm, or permit any other firm to perform any of its MBE, WBE and/or VBE/SDVOBE Work without the prior Approval of the Awarding Authority. Any such unapproved assignment, subcontracting, sub-subcontracting, or performances of MBE, WBE and/or VBE/SDVOBE Work by others shall be a change in the MBE, WBE and/or VBE/SDVOBE Work for the purposes of this Contract. **THE AWARDING AUTHORITY WILL NOT APPLY TO THE MBE, WBE and/or VBE/SDVOBE PARTICIPATION GOAL(S) ANY SUMS ATTRIBUTABLE TO SUCH UNAPPROVED ASSIGNMENTS, SUB-CONTRACTS, SUB-SUBCONTRACTS, OR PERFORMANCE OF MBE, WBE and/or VBE/SDVOBE WORK BY OTHERS.**

- B. The Contractor shall be responsible for monitoring the performance of MBE, WBE and VBE/SDVOBE Work to ensure that each scheduled MBE, WBE and/or VBE/SDVOBE performs its own MBE, WBE and/or VBE/SDVOBE Work with its own workforce.
- C. The Contractor and each MBE, WBE and VBE/SDVOBE shall provide the Awarding Authority with all information and documentation that the Awarding Authority determines is necessary to ascertain whether or not an MBE, WBE and/or VBE/SDVOBE has performed its own MBE, WBE and/or VBE/SDVOBE Work. At the discretion of the Awarding Authority, failure to submit such documentation to the Awarding Authority shall establish conclusively for the purpose of giving MBE, WBE and/or VBE/SDVOBE participation credit under this Contract that such MBE, WBE and/or VBE/SDVOBE did not perform such work.
 - (1) With each progress payment request submitted by the Contractor to the Awarding Authority, the Contractor must provide the Contractor Progress Payment Report (Exhibit A) indicating the value of payments for each MBE, WBE and VBE/SDVOBE firms for that period.
 - *Note that should it be deemed more efficient, the Awarding Authority may instruct the Contractor to utilize a different payment reporting methodology, including, but not limited to, an online reporting system, and/or modifications to the Contactor Progress Payment Report form.*

6. NOTIFICATION OF CHANGES IN MBE, WBE and/or VBE/SDVOBE WORK

- A. If at any time during the performance of the Contract the Contractor determines or has reason to believe that a scheduled MBE, WBE and/or VBE/SDVOBE is unable or unwilling to perform its MBE, WBE and/or VBE/SDVOBE Work, or that there has been or will be a change in any MBE, WBE and/or VBE/SDVOBE Work, or that the Contractor will be unable to meet the MBE, WBE and/or VBE/SDVOBE participation goal(s) for this Contract for any reason, the Contractor shall immediately notify the Awarding Authority Contract Compliance Office in writing of such circumstances.
- B. Any notice of a change in MBE, WBE and/or VBE/SDVOBE Work pursuant to subparagraph "A" above shall include a revised Schedule of MBE, WBE and/or VBE/SDVOBE Participation, and additional or amended Letters of Intent and subcontracts, as the case may be.
- C. Contractor is expected to conduct reasonable efforts to replace MBE, WBE and/or VBE/SDVOBE contractors in order to meet the participation goals set for this contract as stated below when doing so will not result in unreasonable project delay.
 - Contractor shall coordinate with the Awarding Authority and the SDO to locate other MBE, WBE and/or VBE/SDVOBE contractors.

WBE and/or VBE/SDVOBE contractors to participate on the project in the event a listed MBE, WBE and/or VBE/SDVOBE should lose its certification status during the contract and be unable to recertify within a timely manner.

7. ACTIONS REQUIRED IF THERE IS A CHANGE IN MBE, WBE and/or VBE/SDVOBE PARTICIPATION

- A. In the event there is a change or reduction in any MBE, WBE and/or VBE/SDVOBE Work which will result in the Contractor failing to meet the MBE, WBE and/or VBE/SDVOBE participation goal(s) for this Contract, other than a reduction in MBE, WBE and/or VBE/SDVOBE Work resulting from a Change Order initiated by the Awarding Authority, then the Contractor shall immediately undertake a diligent, good faith effort to make up the shortfall in MBE, WBE and/or VBE/SDVOBE participation as follows:
- (1) The Contractor shall identify all items of the Work remaining to be performed under the Contract that may be made available for subcontracting to MBEs, WBEs and/or VBEs/SDVOBEs. The Contractor shall send a list of such items of work to the Awarding Authority, together with a list of the remaining items of the Work that was not made available to MBEs, WBEs and/or VBEs/SDVOBEs and the reason for not making such work available for subcontracting to MBEs, WBEs and/or VBEs/SDVOBEs.
 - (2) The Contractor shall send written notices soliciting proposals to perform the items of the Work that may be made available for subcontracting to MBEs, WBEs and/or VBEs/SDVOBEs to all MBEs, WBEs and/or VBEs/SDVOBEs qualified to perform such work. The Contractor shall advise the Awarding Authority of (i) each MBE, WBE and/or VBE/SDVOBE solicited, and (ii) each MBE, WBE and/or VBE/SDVOBE listed in the SDO directory under the applicable trade category that was not solicited and the reasons therefore that no qualified MBEs, WBEs and/or VBEs/SDVOBEs are available, qualified MBEs, WBEs and/or VBEs/SDVOBEs did not respond, lack of eligible MBEs, WBEs and/or VBEs/SDVOBEs in the geographical region, or there are no certified MBEs, WBEs and/or VBEs/SDVOBEs certified in the scope of work of the project including the opportunity for subcontracting. The Contractor shall also advise the Awarding Authority of the dates notices were mailed and provide a copy of the written notice(s) sent.
 - (3) The Contractor shall make reasonable efforts to follow up the written notices sent to MBEs, WBEs and/or VBEs/SDVOBEs with telephone calls or personal visits in order to determine with certainty whether the MBEs, WBEs and/or VBEs/SDVOBEs were interested in performing the work. Phone logs or other documentation must be submitted to the Awarding Authority evidencing this effort.
 - (4) The Contractor shall make reasonable efforts to assist MBEs, WBEs and/or VBEs/SDVOBEs that need assistance in obtaining insurance, bonds, or lines of credit in order to perform work under the Contract and shall provide the Awarding Authority with evidence that such efforts were made.
 - (5) The Contractor shall provide the Awarding Authority with a statement of the response received from each MBE, WBE and/or VBE/SDVOBE solicited, including the reason for rejecting any MBE, WBE and/or VBE/SDVOBE who submitted a proposal.

(6) The Contractor shall take any additional measures reasonably requested by the Awarding Authority to meet the MBE, WBE and/or VBE/SDVOBE participation goal(s) established for this Contract, including, without limitation, placing advertisements in the Supplier Diversity Hub and in appropriate media and trade association publications announcing the Contractor's interest in obtaining proposals from MBEs, WBEs and/or VBEs/SDVOBEs, and/or sending written notification to MBE, WBE and/or VBE/SDVOBE economic development assistance agencies, trade groups and other organizations notifying them of the project and of the work available to be subcontracted by the Contractor to MBEs, WBEs and/or VBEs/SDVOBEs.

B. If the Contractor is otherwise in full compliance with the terms of this Appendix but unable to meet the MBE, WBE and/or VBE/SDVOBE participation goals for this Contract after complying fully with each of the requirements of paragraph "A" above, the Awarding Authority may adjust the MBE, WBE and/or VBE/SDVOBE participation goals for this Contract to the extent that such goals cannot be achieved, as referenced in Attachment C.

8. SUSPENSION OF PAYMENT and/or PERFORMANCE FOR NONCOMPLIANCE.

A. If at any time during the performance of this Contract, the Awarding Authority determines or has reason to believe that (1) there has been a change or reduction in any MBE, WBE and/or VBE/SDVOBE Work which will result in the Contractor failing to meet the MBE, WBE and/or VBE/SDVOBE participation goal(s) for this Contract, other than a reduction in MBE, WBE and/or VBE/SDVOBE Work resulting from a change in the Contract work ordered by the Awarding Authority, and (2) the Contractor has failed to comply fully with all of the terms and conditions of paragraphs 1 through 7 above, the Awarding Authority may:

(1) Suspend payment to the Contractor of an amount equal to the value of the work which was to have been performed by an MBE, WBE and/or VBE/SDVOBE pursuant to the Contractor's Schedule of MBE, WBE and VBE/SDVOBE Participation but which was not so performed, in order to ensure that sufficient Contract funds will be available if liquidated damages are assessed pursuant to paragraph 9, and/or

(2) Suspend the Contractor's performance of this Contract in whole or in part.

B. The Awarding Authority shall give the Contractor prompt written notice of any action taken pursuant to paragraph A above and shall give the Contractor and any other interested party, including any MBEs, WBEs and/or VBEs/SDVOBEs, an opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Appendix or that there is some justifiable reason for waiving the requirements of this Appendix in whole or in part. The Awarding Authority may invite SDO to participate in any proceedings undertaken pursuant to this paragraph.

C. Upon a showing that the Contractor is in full compliance with the requirements of this Appendix, or that the Contractor has met or will meet the MBE, WBE and VBE/SDVOBE participation goals for this Contract, the Awarding Authority shall release any funds withheld pursuant to clause A (1) above and lift any suspension of the Contractor's performance under clause A (2) above.

9. LIQUIDATED DAMAGES; TERMINATION

A. If payment by the Awarding Authority or performance by the Contractor is suspended by the Awarding Authority as provided in paragraph 8 above, the Awarding Authority shall have the following rights and remedies if the Contractor thereafter fails to take all action necessary to bring the Contractor into full compliance with the requirements of this Appendix, or if full compliance is no longer possible because the default of the Contractor is no longer susceptible to cure, if the Contractor fails to take such other action as may be required by the Awarding Authority to meet the MBE, WBE and VBE/SDVOBE participation goals set forth in this Contract:

- (1) The Awarding Authority may terminate this Contract, and/or
- (2) The Awarding Authority may retain from final payment to the Contractor, as liquidated damages, an amount equal to the difference between:
 - (a) The total of the MBE, WBE and VBE/SDVOBE participation goals set forth in this Contract, and
 - (b) The amount of MBE, WBE and VBE/SDVOBE participation credit earned by the Contractor for MBE, WBE and/or VBE/SDVOBE Work performed under this Contract as determined by the Awarding Authority, the parties agreeing that the damages for failure to meet the MBE, WBE and VBE/SDVOBE participation goals are difficult to determine and that the foregoing amount to be retained by the Awarding Authority represents the parties' best estimate of such damages. Any liquidated damages will be assessed separately for MBE, WBE and VBE/SDVOBE participation.

B. Before exercising its rights and remedies hereunder, the Awarding Authority may give the Contractor and any other interested party another opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Appendix or that there is some justifiable reason for waiving the requirements of this Appendix in whole or in part. The Awarding Authority may invite SDO to participate in any proceedings undertaken hereunder.

10. REPORTING REQUIREMENTS

The Contractor shall submit to the Awarding Authority all information or documentation that is necessary in the judgment of the Awarding Authority to ascertain whether or not the Contractor has complied with any of the provisions of this Article.

11. AWARDING AUTHORITY'S RIGHT TO WAIVE PROVISIONS OF THIS APPENDIX IN WHOLE OR IN PART

The Awarding Authority reserves the right to waive any provision or requirement of this Appendix if the Awarding Authority determines that such waiver is justified and in the public interest. No such waiver shall be effective unless it has been submitted by the Awarding Authority in writing to and subsequently approved in writing by the Executive Director of the Supplier Diversity Office (SDO). No other action or inaction by the Awarding Authority shall be construed as a waiver of any provision of this Appendix.

ATTACHMENT E

Request Goals for a Design or Construction Project

The Municipal Construction Affirmative Marketing Program (MCAMP) and the Veterans Business Program require Municipalities to incorporate Minority Business Enterprise (MBE), Women Business Enterprise (WBE) and Veteran Business Enterprise (VBE)/Service-Disabled Veteran Business Enterprise (SDVOBE) goals into both their design and construction procurements for municipal contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building by any city or town that includes funding provided in whole or in part by the Commonwealth.

Information must be provided as soon as possible to ensure goals are set properly. Please see below for information required for both design and construction projects. Failure to include all needed information may delay your request.

Design Projects

- Total project cost
- Designer fee (if applicable)
- Project type (House Doctor or straight design)
- Primary discipline (architecture, engineering, mechanical, etc.)
- Split between primary disciplines (ex. 60% architecture, 40% engineering)
- Copy of the RFQ – designer RFS

Construction Projects

- Reconciled estimate/construction documents in CSI format (UniFormat estimates not accepted)

Contact

To request project goals, please email the required information to SDO.Construction@mass.gov.